

CHAPTER 1073
INDEMNIFICATION FOR ART OBJECTS
H.F. 2284

AN ACT relating to agreements for indemnification by the state in the event of loss of or damage to certain art objects and artifacts borrowed by nonprofit organizations or governmental entities for special exhibits.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 304A.5, Code 1983, is amended by adding the following new subsection:
NEW SUBSECTION. Administer the program of agreements for indemnification by the state in the event of loss of or damage to special exhibit items established by sections 304A.15 through 304A.24.

Sec. 2. **NEW SECTION.** 304A.15 DEFINITIONS. When used in sections 304A.15 through 304A.24, unless the context otherwise requires:

1. "Council" means the Iowa state arts council.
2. "Director" means the director of the council.
3. "Division" means the division of risk management of the department of general services.
4. "Indemnity agreement" means an agreement authorized by section 304A.16.
5. "Nonprofit organization" means a corporation organized under chapter 504 or 504A or which holds a permit or certificate under chapter 504 or 504A to do business or conduct affairs in this state.

Sec. 3. **NEW SECTION.** 304A.16 AGREEMENTS TO INDEMNIFY AGAINST LOSS OF OR DAMAGE TO SPECIAL EXHIBIT ITEMS.

1. The director of the Iowa state arts council, after receiving the advice and recommendations of the council, may make agreements on behalf of the state to indemnify against loss of or damage to eligible special exhibit items of public educational, cultural, artistic, historical or scientific significance borrowed from outside the state by nonprofit organizations or governmental entities as provided in sections 304A.15 through 304A.24.

2. The director, after consultation with the council, shall adopt rules for the administration of sections 304A.15 through 304A.24.

Sec. 4. **NEW SECTION.** 304A.17 ITEMS ELIGIBLE FOR INDEMNITY AGREEMENTS.

1. Except as provided in subsection 2, the following items are eligible for inclusion in an indemnity agreement if they are of public educational, cultural, artistic, historical or scientific significance and constitute a portion of a special exhibition having an estimated aggregate fair market value of at least two hundred fifty thousand dollars:

- a. Works of art, including tapestries, paintings, sculpture, folk art, graphics and craft arts.
- b. Manuscripts, rare documents, books and other printed or published material.
- c. Photographs, motion pictures, video tapes and audio tapes.
- d. Other artifacts.

2. Items which are eligible for a federal indemnity agreement under the Arts and Artifacts

Indemnity Act, 20 U.S.C. sec. 971 to 977, and regulations under that Act, are not eligible for inclusion in a state indemnity agreement.

Sec. 5. NEW SECTION. 304A.18 APPLICATIONS. A nonprofit organization or governmental entity desiring to obtain an indemnification agreement for special exhibit items it proposes to borrow from outside this state may submit an application to the director. The application shall:

1. Describe each item to be covered by the indemnity agreement, including the estimated value of the item.
2. Show evidence that the items are eligible under section 304A.17.
3. Set forth policies, procedures, techniques and methods with respect to preparations for and the conduct of the exhibition, including arrangements for transportation of the items.

Sec. 6. NEW SECTION. 304A.19 REVIEW AND DETERMINATION AS TO QUALIFICATION FOR INDEMNITY COVERAGE.

1. Every application received by the director shall be submitted to the department of general services which, through its division of risk management, shall review the application and determine whether the applicant qualifies for indemnity coverage under sections 304A.15 through 304A.24. The criteria for qualification shall be prescribed by rule of the department and shall include but not limited to:

- a. Physical security of the applicant's exhibition facilities and of the means of transportation of the items.
- b. Experience and qualifications of the applicant's director, curator, registrar or other staff.
- c. Eligibility of the applicant's exhibition facilities for commercial insurance coverage of art objects and artifacts exhibited there.
- d. Availability of proper equipment to protect art objects and artifacts from damage from extremes of temperature or humidity or exposure to glare, dust or corrosion.

2. The division may consult with experts as necessary to carry out its duties under this section.

3. If the division of risk management of the department of general services is not staffed, the department shall utilize the services of a consultant in carrying out the division's duties under this chapter.

Sec. 7. NEW SECTION. 304A.20 REVIEW AND DETERMINATION AS TO ELIGIBILITY AND ESTIMATED VALUE OF ITEMS.

1. If the department of general services determines that the applicant qualifies for indemnity coverage, the director shall review and determine the validity of other portions of the application, including the eligibility of items for which coverage by an indemnity agreement is sought and the estimated value of those items.

2. The director may order an appraisal of the items by an independent appraiser at the expense of the applicant.

3. The council shall designate a committee of experts to advise the director in determining the eligibility and estimated value of the items. The director shall not approve an estimated value without the approval of the committee.

Sec. 8. NEW SECTION. 304A.21 APPROVAL—TERMS. If the director determines that the application meets all requirements for approval, the director shall approve the application and on behalf of the state enter into an indemnity agreement with the lender and the applicant whereby the state becomes liable to indemnify against loss of or damage to the items specified in the agreement. The agreement shall cover the specified items from the time they leave the premises of the lender, or other place designated in writing by the lender, until the time the items are returned to the premises of the lender or other designated place.

Sec. 9. NEW SECTION. 304A.22 LIMITATIONS.

1. Coverage under sections 304A.15 through 304A.24 shall extend only to loss or damage in excess of the first twenty-five thousand dollars in connection with a single exhibition.

2. Indemnity agreements entered into by the director shall not exceed an aggregate value of one million dollars at any one time. The agreements, together with the claims paid to date, shall not exceed one million dollars at any one time.

Sec. 10. NEW SECTION. 304A.23 CLAIMS.

1. Claims for losses covered by indemnity agreements under sections 304A.15 through 304A.24 shall be submitted to the department of general services which, through its division of risk management, shall review the claims. If the division determines that the loss is covered by the agreement, the division shall certify the validity of the claim and authorize payment of the amount of loss, less any deductible portion, to the lender.

2. The department shall prescribe rules providing for prompt adjustment of valid claims. The rules shall include provisions for the employment of consultants and for the arbitration of issues relating to the dollar value of damages involving less than total loss or destruction of covered items.

3. The authorization for payment shall be forwarded to the comptroller, who shall issue a warrant for payment of the claim from the state general fund out of any funds not otherwise appropriated.

Sec. 11. NEW SECTION. 304A.24 ANNUAL REPORT. The director shall report annually to the legislature concerning:

1. Claims, if any, actually paid pursuant to sections 304A.15 through 304A.24, during the preceding fiscal year.

2. Claims pending as of the close of the preceding fiscal year.

3. The aggregate face value of indemnity agreements entered into which are outstanding at the close of the preceding fiscal year.

Approved April 12, 1984